

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PAUL EDDIE BLAND, II,	)	No. C 07-04023 TEH (PR)
Petitioner,	)	
vs.	)	ORDER GRANTING REQUEST
	)	FOR STAY
ROBERT A. HOREL, Warden	)	
Respondent.	)	
	)	(Docket No. 8)

Petitioner, a state prisoner incarcerated at Pelican Bay State Prison in Crescent City, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging the constitutionality of his state conviction. After an initial review, the Court found that petitioner had not exhausted four of his claims in the state high court. The Court ordered petitioner to make an election between three options: 1) dismiss the unexhausted claims and proceed with only the exhausted claims; 2) terminate the action to complete exhaustion in state court before filing a new federal petition; or 3) request a stay of the proceedings while he completes exhaustion of his unexhausted claims in the California Supreme Court. Petitioner elected the third option - to stay the proceedings.

Good cause appearing, see Rhines v. Webber, 544 U.S. 269, 277 (2005)


1 (finding district courts have authority to stay federal habeas petition, and AEDPA  
2 does not deprive them of that authority), the election to stay the proceedings (Docket  
3 No. 8) is GRANTED, and the above-titled action is hereby STAYED until petitioner  
4 files a motion to reopen as described below.

5 In his notice filed April 16, 2008, petitioner stated that he filed his  
6 unexhausted claims with the state high court on March 13, 2008. Petitioner is  
7 reminded that within thirty days of the California Supreme Court's decision, he must  
8 file a motion to reopen this action. Furthermore, if petitioner wishes to have this  
9 Court consider his claims, he must file an AMENDED PETITION at the same time  
10 as the above-described motion to reopen this action. The amended petition must  
11 include the caption and civil case number used in this order, No. C 07-04023 TEH  
12 (PR), and must include the words AMENDED PETITION on the first page.

13 In the amended petition, petitioner must include all the claims he wishes to  
14 present, including both the newly exhausted claims and the cognizable claims from  
15 the original petition. **If petitioner simply files a motion to reopen this action, but  
16 does not concurrently file an amended petition in compliance with the  
17 instructions set forth herein, this action will proceed only on the basis of the  
18 exhausted claims in the original petition.**

19 The clerk shall ADMINISTRATIVELY CLOSE the file pending the stay of  
20 this action.

21  
22 DATED: April 22, 2008

  
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THELTON E. HENDERSON  
United States District Judge